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Abstracting

EU'S REFUGEE CRISIS: FROM SUPRA-NATIONALISM TO NATIONALISM?

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Abstract

The refugee crisis of 2015-2016 revealed the strength of the idea of "national sovereignty" within Member States of the European Union indicating that not only supra-nationalism is still a nascent thinking in the Union but also inter-govermentalism readily transforms into a "self-help" mechanism to opt out from "common European" destiny in times of crisis. As such it seems that the recent refugee crisis has awakened nationalistic populism in Europe with disintegrative impact on the Union. Despite the controversial EU-Turkey joint action plan of March 2016 that effectively served to reduce the number of refugees crossing into the EU area the intergovernmental and supranational division on how to reconcile national concerns with that of the EU rules and regulations as well as humanitarian responsibility still persist.

Keywords: European Union, refugee crisis, nationalism, populism, EU-Turkey refugee deal

INTRODUCTION

Wars, civil strife and ensuing humanitarian crisis in Syria, Afghanistan and Iraq have turned into a threat of massive refugee flow for the EU. FRONTEX, the EU's external border force, places the number of migrants who crossed Europe's borders in 2015 at around 1.800.000. Seeking safety and better opportunities in Europe about 225,000 refugees crossed the Aegean Sea into Greece from April to August 2015 forcing the EU to make a deal with Turkey where almost 3 million had already been settled. Consequently, with well over a million irregular migrants and 1.3 million asylum applications in 2015 and 2016, a vast majority being from the war thorn countries (Eurostat 2017) European policy makers were paralyzed. With Dublin agreement seemed dysfunctional and the Schengen regime under serious stress the EU Member States most exposed to the new immigration wave took unilateral and largely incoherent steps in response to disproportionate share of burden.

The refugee issue of 2015-2016 revealed the strength of the "national idea" within Member States and their preference for "national sovereignty" in times of crisis (Dagi 2017). As such it seems that not only supranationalism is still a nascent idea in the Union but also intergovermentalism readily transforms into a "self-help" mechanism to opt out from "common European" destiny when crisis hits the Union. It appears that the recent refugee crisis has awakened nationalistic populism in Europe with disintegrative impact on the Union.

Unlike some old crises from which the EU had grown stronger the refugee crisis stands out unique given that effects and consequences of migration are bound to pose significant challenges of economic, demographic and sociological kind for the Member States and the Union alike. As such it requires an intergovernmental approach given the way in which the Union had responded to such common problems in the past. Yet national governments with different threat perceptions and concerned about a possible unequal distribution of the burden opt for an inter-governmental approach with an expectation to gain greater control over the decisions to respond the refugee crisis. Thus, in the face of the refugee question national governments are re-discovering their distinct national interests, and thus tend to turn inter-governmentalism into nationalism in dealing with the question of refugees in Europe. In an environment where the refugee crisis divided Member States and triggered radical opinions within each, governments forced for short term solutions and Euroscepticism an all-time high (Stylianou 2014) the European integration process appears to be in the midst of slowing down if not regressing.

The Failure of EU's Supranationalism

Despite the Schengen regime and Dublin regulations devising out a common immigration and asylum policy the EU failed to respond unanimously to the refugee crisis in 2015. Scope of the problem and uneven distribution of burden among the Member States coupled with an anxious public opinion in a political milieu of rising populism across Europe rendered the 2015 refugee crisis hard to deal with collectively.

The refugee influx proved itself to be a compelling challenge to the functioning of core domestic EU laws. The Dublin Regulation of 1997, designed to determine quickly the member state responsible to give asylum, was the first EU codification that fell victim to the crisis. Under the regulation migrants could only apply for asylum in the first country through which they entered EU borders and was exposed to deportation in case of a border violation (EC 2017). The secondary movements of the refugees from their country of entry violated the Dublin Regulations as it eliminated border controls within the EU, but it also exposed the Member States in the Mediterranean which are the gates of entry for the refugees (Aljazeera, 2016).

As the Dublin Regulations seemed flowed the Member States engaged in unilateral ad hoc measures. This included a variety of actions from the construction of border barriers in the Hungarian-Serbian border (Simicsko 2016) to the temporary suspension of Schengen visa policy by Austria (Minns and Karnitschnig 2016). While Germany and Sweden conducted an open door policy (Fraser, 2015), the Central European countries were much more skeptical with regards to a full-fledged pro-refugee policy. The recent crises and the dissatisfactory response to it by Germany and the Commission thus brought together the Visegrad Group once again after their acceptance to the EU. The

group of Poland, Hungary, Czech Republic and Slovakia expressed their mutual concern that the EU had lost control of the frontiers of the passport-free Schengen zone (Cienski 2016). Consequently, the Visegrad countries assumed that efforts to integrate Muslim immigrants in Europe had failed, migration crises were not uncontrollable and the migrants would not bring economic benefits (Hokovsky 2016). The group further declared that: "A swift implementation of measures […] to strengthen external border protection must remain the top priority if we are to prevent the 2015 scenario […] a crisis that questions the very foundations of the European Union" (Foy 2016).

In response to the crisis, the Commission proposed a renewal of the Dublin regulations to create a more equitable burden sharing system (Denisson, 2016) which proved to be in void with the categorical rejection of it by the Central European Member States (Hokovsky 2016). The Dublin regulations, which had been criticized right from its inception as inequitable, became obsolete as Angela Merkel voluntarily assumed responsibility for unconditional asylum in the aftermath of the Hungarian decision to deport unlawful migrants to their first place of residence (Holehouse 2015).

The failure of the Dublin regulations to address the refugee influx had troubling spillover effects on the Schengen regime which guarantees the free movement of people within EU borders. As it became more and more obvious during 2015 when the Union was not capable of limiting migration in their external borders, the Member States had no other choice but to temporarily reinstate border controls to secure their internal borders. As countries imposed unilateral border controls one after another, Schengen, despite being a significant achievement of the European integration project was in grave danger to a point where Merkel had to threaten other Member States to take their share of refugees for Schengen to continue functioning (Karnitschnig 2015). However, the visa regime proved itself more resilient to a state of emergency due to its specific articles under the Schengen Agreement that enabled unilateral border controls up to six months. The Member States used the serious threat that uncontrolled migration caused to public order and/or threat of terrorism as a justification to invoke the relevant articles (European Parliament 2016). Yet, it wasn't merely the well design of the EU regime which saved Schengen from failing. The considerable decrease in the pace of mass refugee influx, largely due to the EU-Turkey deal of November 2015, before the legal maximum limit of border controls was reached prevented a very likely mass breach of Schengen codes, thus the nullification of the Schengen Agreement.

The refugee crisis did not only place Schengen and Dublin regulations under significant stress the Lisbon Treaty of 2009 that granted the supranational EU institutions unprecedented competence in governing migration and asylum was brought under great risk as well. The treaty had been designed to further supranationalism enshrined in the Amsterdam Treaty by creating a uniform status of asylum valid throughout the Union, a criteria for determining the member state responsible for assessing an application and a common system of temporary protection. Moreover, it embodied the Charter of Fundamental Rights, originally adopted in 2000, making it legally binding to adhere with the rules of Geneva Convention of 1951, the Protocol of 1967 and the Treaty on the Functioning of the European Union (TFEU) for the member states. Also, in an effort to minimize the possibility of intergovernmental disagreements an article of solidarity was added to the TFEU which read: "Under the Lisbon Treaty, immigration policies are to be

governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the member states" (Raffaelli 2017).

The Lisbon Treaty did indeed authorize the supranational institutions to give binding decisions on matters of migration without the consent of Member States but resolute stands of national governments hit hard by refugee influx and prevailing public opinion unfolded after the refugee crisis made it highly risky, if not impossible. Meanwhile, the unilateral actions of the Member States and their multilateral deadlock on how to tackle the refugee crisis made the so called solidarity principle of the Lisbon Treaty void. The failure of the Justice and Home Affairs (JHA) governance regime of EU during the refugee crisis suggests that it is explicitly designed for fair weathers, not for destructive crisis.

Division in the Union: Policies and Values

From the "empty chair" crisis of 1965 to the Euro crisis of 2009, no other difficulty had divided the Member States of the EU like the recent refugee influx has done. While EU political leaders agreed for the need to preserve the "core European values", they significantly disagreed on how to do it and what qualifies as endangered European values.

A clash of intergovernmental and supranational perspectives dominated the debate, yet, with their radical proponents and in a political milieu of populism. The loudest supporters of an intergovernmental response were the right leaning nationalists who viewed the refugee/migrant crisis as more than anything else a national security issue, suggesting that losing control of their borders is suicidal for a sovereign state (Farage 2015). On the other hand, the left leaning internationalists, backing a supranational response, prioritized the crisis as a human security issue which creates a common responsibility for all under international and EU laws (Patru 2016).

The champions of intergovernmentalism-cum-nationalism were the four Central European member states, also known as the Visegrad group. For instance, the Hungarian Prime Minister Viktor Orban was very vocal on opposing the Commission's proposal for the creation of a "burden sharing regime" while having no hesitation to evoke the relevant articles of the Dublin Regulations in order to deport the illegal/irregular migrants. Not surprisingly, the Visagrad group urged that they don't only have the responsibility to protect their internal borders in times that external border protection has failed (Cienski 2016) but also they will not take Muslim migrants (Park 2015).

On the other side of the debate were the European Commission, Sweden and Germany the major defenders of supranationalism-cum-internationalists. While Germany and Sweden conducted an open door policy taking more than a million migrants during 2015-2016 (Connor, 2016), the Commission encouraged other Member States to take unpopular decisions when necessary (Holehouse 2015). The internationalists underlined the welcome culture, human rights, international/national law and the potential for migrants to bring economic benefits to justify their position. Angela Merkel, the German Chancellor, being the most vocal of them stated: "The German constitution and European values requires the protection of people's dignity. That means not only the dignity of people in Germany but it also means a global understanding of the dignity of people" (Wagstyl 2016). With both sides describing themselves as the protectors of European values the main reason behind intergovernmental disagreement on how to react lies upon a contrasting visions on which European values are in danger as a result of the refugee influx. For the

supporters of supranationalism the core European values in need of protection are human dignity, right for asylum and minority rights. This view is fully reflected by Heather A. Conley of CSIS: "Such policies would not just imperil migrants and refugees, but also the very ideals upon which the EU was found. The political response […] runs counter to the very values that the EU promotes, like protecting human life and the right to asylum" (Park, 2015).

Meanwhile, some proponents of intergovernmentalism basically argued that the Islamic culture of the migrants is in complete odds with the Western culture (Cendrowicz 2015). As Muslims make up great majority in the recent refugee surge in Europe anti-immigration sentiments were expressed by references to Muslim extremism. A growing number of Europeans tend to link the immigrant Muslim presence on the continent with jihadist assaults hitting major European cities as many believe that Islamic immigration make their country more susceptible to terrorism (Poushter 2016).

The failure of the EU institutions and the mainstream politicians led to disbelief in political institutions and mistrust in mainstream media. This public frustration in return was easily capitalized by the once marginal populist parties. While the first wave of rising populism in the XXI century EU had a leftist anti-establishment discourse in countries most affected by the 2009 Euro debt crisis, the second wave has a right wing anti-establishment discourse in countries where the chronic migration question gained salience with the recent influx of refugees (Broning 2016). Almost inevitably, the failure to respond to the external threat of mass Muslim immigration triggered an internal upsurge of nationalist populism.

Regardless of the anti-establishment political parties' failure to secure a first place in the recent elections in Austria and Holland they made unprecedented gains while enjoying the privilege to set the agenda throughout the campaign. Unquestionably, it was the Brexit referendum of June 2016 that has been the biggest victory for the nationalist politicians outside the EU's mainstream so far. With Brexit becoming a reality, the EU integration was no longer losing pace but actually regressing. Even though UK was mildly affected by the recent refugee crisis as a non-Schengen area country, it is estimated that one third of leave voters were mainly motivated by the opportunity to regain control over immigration (Ashcroft, 2016).

The nationalists ranging from the V4 Group to Nigel Farage share the view that the Christian identity of Europe, the will of the people and the sovereignty of the state are the true European values that need to be preserved. Viktor Orban, among the most outspoken in defense of intergovernmentalism summarized the nationalist concern: "Migration poses a threat, increases terrorism and crime. Mass migration fundamentally changes Europe's cultural identity. Mass migration destroys national culture. If we do not accept this view, if this does not become the European position, we will be unable to act against this threat" (The Hungarian Government 2016). Such views were hard to be reconciled with the views of the internationalists who tended to view the issue as firstly a matter of universal human rights, thus, posits that securitization of immigration issues would go against the European values. The nationalists, on the other hand, treated the issue as a matter of national sovereignty that requires taking swift unilateral decisions to protect national security as well as the European values. Despite these divergences on policy priorities and definition of European values the EU managed to reach a consensus on a common policy to avert the refugee crisis becoming an ever destructive force for the union when a deal was signed with Turkey in March 2016.

The EU-Turkey Deal: A Shaky Common Policy

The weakness of the EU laws and regulations, constantly increasing threat of Islamic terrorism and the rise of populist movements as a direct consequence of the refugee crisis compelled the internationalists to come to terms with the nationalists who advocated prevention of illegal/irregular arrivals. As the EU does not enjoy the capacity to eliminate the root causes of recent refugee outflows (stopping the civil war in Syria, for instance) it had no other choice but to externalize migration controls. Considering that the vast majority of Syrian refugees entered Europe over Turkey the European Union concentrated its efforts to reach a deal with the Turkish government which took place on 18 March 2016 through reactivation of "EU-Turkey Joint Action Plan".

Essentially, the agreement established a burden sharing model between the EU and Turkey in which new irregular migrants entering the EU territory would be sent back to Turkey with the promise of the EU to relocate one Syrian refugee from Turkey for every one sent back. Moreover, the deal envisioned visa liberalization for Turkish nationals as well as an aid of approximately €6 billion to the facility for refugees until the end of 2018 (EC, 2016). Yet, the deal was signed in an environment of mutual distrust since the EU-Turkey relations had already been deteriorating for a couple of years due to criticisms of increasing authoritarianism in Turkey (Bekdil 2017). Regardless of the failure to lift the visa requirement for the Turkish citizens, the European Parliament's decision to freeze EU accession talks with Turkey (Kanter 2016) and President Erdogan's subsequent threats to open the gates for refugees (Mortimer, 2016) the EU-Turkey Joint Action Plan has been very successful on reducing the numbers of migrants leaving Turkey for Greece (Knaus 2016).

Even though the agreement lifted the immediate pressure of the refugee crisis from the EU institutions as well as the Member States it was not exempt from criticisms. In fact, both the left and right wing actors raised several questions about the validity and implications of the deal. While the internationalists were mainly concerned about the EU dilemma regarding its high asylum standards and its indifference to a humanitarian crisis (Collett 2016) the nationalists were unhappy with the promise of visa liberation for the Turkish citizens (Banks, 2016) and the Union's chronic weak attitude towards a country blackmailing them (Stone 2016). Nevertheless, the controversial EU-Turkey refugee deal marked a turning point for the EU, though it appears shaky in the face of constant threats from Turkey of opening its gates to the refugees into Europe. This was so not only because it prevented further chaos in the area of the JHA governance and temporarily appeased populist reactions but also due to the fact that it was the first common response undertaken with the approval of all actors involved in the process rescuing the EU from an inability to respond collectively to a common problem.

CONCLUSION

The process of European integration has been long regarded to be a unique story of economic miracles, sustained development, social transformation, enduring peace, cooperation and interdependence. Regardless of its unrivaled achievements, the European project has also encountered countless failures, inabilities, disagreements and crisis. However, it wasn't until the refugee crisis of 2015-2016 that the Union with all of its member states, supranational and intergovernmental institutions was caught in such a vulnerable and exposed position as regard to its institutions, rules and regulations (Mason 2015). Yet, the recent refugee crisis in Europe did not only test EU's institutions and regulations but also its political values now contested with greater vigor by populist movements across Europe that reinvented themselves in the emerging social and political space in reaction to influx of refugees into Europe. Thus, recent refugee crisis is likely to have consequences going beyond the need for reforming Dublin regulations and saving the Schengen area as well as posing to shape political landscape of Europe. The complexities resulting from it have the potential to erode the already exhausted sense of community among the EU member counties to a bitter end.

The refugee crisis of 2015-2016 demonstrated the strength of the advocates of national sovereignty within the Member States of the EU indicating that not only supranationalism is still a nascent idea in the Union but also intergovermentalism is likely to turn into a "self-help" mechanism to opt out from the idea of a "common European" in times of crisis. Intergovernmental nature of the refugee problem has thus made a common supranational response that would serve to the benefit of all politically and culturally diverse Member States almost impossible as concerns on national interests tended to trump over common EU interests, and intergovermentalism readily evolved into nationalism. In spite of the EU-Turkey refugee agreement of March 2016 that effectively served to reduce the number of refugees crossing into the EU area the intergovernmental and supranational division on how to reconcile national concerns over the refugee question with that of the EU regulations and values remains a test-case for the future of the EU. 

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